



0000059960

ORIGINAL

30

MEMORANDUM

RECEIVED

TO: Docket Control
FROM: Ernest G. Johnson
Director
Utilities Division

Arizona Corporation Commission

DOCKETED

FEB 14 2003

2003 FEB 14 A 11:39

AZ CORP COMMISSION
DOCUMENT CONTROL

DATE: February 14, 2003

DOCKETED BY	CR
-------------	----

RE: EMERGENCY APPLICATION OF TELIGENT SERVICES, INC. TO
DISCONTINUE LOCAL EXCHANGE SERVICE (DOCKET NO. T-03761A-01-
0911)

Attached is the Staff Report for Teligent Services, Inc.'s application for approval to discontinue local exchange service. Staff recommends that the Certificate of Convenience and Necessity of Teligent Services, Inc. to provide local exchange service be rescinded.

EGJ:LAJ:lm

Originator: Linda A. Jaress

Attachment: Original and Thirteen Copies

Service List for: Teligent Services, Inc.
Docket No. T-03761A-01-0911

ALL SERVICE LISTS SHOULD INCLUDE THE FOLLOWING:

Mr. Michael Patten
Roshka Heyman & DeWulf, PLC
Two Arizona Center
400 North 5th Street, Suite 1000
Phoenix, Arizona 85004-3906

Ms. Terri B. Natoli
Vice President, Regulatory Affairs and Public Policy
Teligent Services, Inc.
460 Herndon Parkway, Suite 100
Herndon, Virginia 20170

Mr. Christopher C. Kempley
Chief, Legal Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Mr. Ernest G. Johnson
Director, Utilities Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Ms. Lyn Farmer
Director, Hearing Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

**STAFF REPORT
UTILITIES DIVISION
ARIZONA CORPORATION COMMISSION**

TELIGENT SERVICES, INC.

DOCKET NO. T-03761A-01-0911

**EMERGENCY APPLICATION FOR APPROVAL
TO DISCONTINUE LOCAL EXCHANGE SERVICE**

FEBRUARY 2003

STAFF ACKNOWLEDGMENT

The Staff Report for Teligent Services, Inc., Docket No. T-03761A-01-0911 was the responsibility of Linda A. Jaress.

A handwritten signature in cursive script, reading "Linda A. Jaress". The signature is written in dark ink and is positioned above the printed name and title.

Linda A. Jaress
Executive Consultant III

TABLE OF CONTENTS

	<u>PAGE</u>
THE OUTCOME OF BANKRUPTCY PROCEEDINGS.....	1
ANALYSIS.....	2
STAFF RECOMMENDATIONS.....	3

On November 16, 2001, Teligent Services, Inc. ("Teligent") filed an emergency application for approval to discontinue the provision of local exchange service. The application also requested a waiver of the requirements of Arizona Administrative Code ("AAC") R14-2-1107 which govern service abandonment.

Teligent received its Certificate of Convenience and Necessity ("CC&N") to provide facilities-based non-switched private line and facilities-based and resale local exchange and facilities-based and resale intrastate toll telecommunications services throughout Arizona in Decision No. 62233, dated January 12, 2000.

On January 11, 2002, Staff filed a Staff Report recommending the Commission approve the application to discontinue local exchange service. Staff also recommended that Teligent's CC&N to provide local service be rescinded.

Staff's recommendation that the local service CC&N be rescinded was based on two primary factors. First, at that time Teligent's financial health was poor and the Company was in bankruptcy. Also, Teligent's discontinuation of service caused approximately 18 local service business customers the stress and inconvenience of changing local service providers in a relatively short time frame.

There has been no proposed order issued in this matter. An Administrative Law Judge issued a Procedural Order on August 1, 2002 that ordered Teligent to update the Commission regarding the Bankruptcy Court proceeding. On January 21, 2003, another Procedural Order was filed requesting that Staff file an amended Staff Report regarding this matter. This Staff Report is being filed in response to that Order.

The Outcome of Bankruptcy Proceedings

Teligent filed the updates requested by the Administrative Law Judge on August 20, 2002, and on September 12, 2002. These updates along with information taken from the telecommunication trade press and Teligent's web site indicate that Teligent has emerged from bankruptcy debt-free and "fully funded". It is now owned by its former secured lenders, including JPMorgan Chase, Bank of America and Toronto Dominion.

According to its web site Teligent is now "...a leading nationwide provider of fixed wireless broadband services offering business customers facilities-based fixed wireless services, including wholesale transport, private line, dedicated Internet access, and long distance." Also, "Teligent's new business model will be focused on its fixed-wireless spectrum, assets and expertise. Leveraging its extensive fixed-wireless experience, Teligent will provide transport services to carriers, point-to-point broadband access services to multi-location business and dedicated Internet connectivity to enterprise companies."

In the September 16, 2002 issue of *Telephony*, Mr. Jim Continenza, Teligent's Chief Executive Officer and President said that prior to bankruptcy, "Teligent was trying to chase and

impress Wall Street". He also stated that since the bankruptcy, "We are about making money. We care about printing cash". The list of Officers on the company's web site shows that of the six officers listed, including the Vice President of Customer Service, all except for the Chief Financial Officer, held their current position at the time the application to discontinue local service in Arizona was filed.

Analysis

Staff believes that although Teligent's financial health has improved, a concern regarding its fitness to provide continuous local service remains. Teligent was a provider of various telecommunications services yet discontinued only local service during a financial emergency. Local service customers are the most vulnerable to service discontinuations. Changing long distance carriers is a fairly simple, speedy process for a customer. The ease of changing local exchange carriers, 18 Teligent business customers in Arizona discovered, depends on the resources of the alternative carriers and can take more than three weeks. When Teligent was discontinuing local service, only the combined efforts of the Company and Commission Staff kept the local service customers from being entirely without service until Qwest or other competitive local service providers could connect them.

The reliance on Commission Staff to aid in the transition of the local service customers to new local service providers was apparent in the Company's application. According to the application,

"Teligent's ability to assist in the seamless transition of its customers' service to another carrier will be enhanced if the Commission encourages any certificated Arizona carrier who will be picking up Teligent's customers to use their best efforts to expedite the provision of such alternative service to the maximum extent possible....Thus, Teligent will need to rely on the cooperation of the customer's chosen alternative carrier to facilitate turning up the customer's new service on a timely basis. "

In its filing, the reason Teligent cited for the need for a waiver from the Commission rule governing discontinuance of service was that the cost of compliance (publishing legal notice of the application in all the counties affected by the application) was unduly burdensome under the circumstances. Staff believes that holders of local service CC&Ns, even those under extreme financial stress, should have sufficient foresight to plan and implement proper, required, legal notification of their customers.

Furthermore, most of the officers of the Company who approved the discontinuation of service without required notice are still employed in the same positions they held when the decision to discontinue Arizona local service and request the notification waiver was made. Thus, the possibility remains that if Teligent were to experience financial difficulties again, the customers subscribing to other services could receive preferential treatment while the local

service customers must search for a local service provider who could provide them service before Teligent drops them.

Staff Recommendations

Although Teligent's financial condition has improved, the previous loss of local exchange service by Teligent's Arizona customers is by itself, enough reason to rescind Teligent's CC&N to provide local service in Arizona. Furthermore, Staff has concerns about Teligent's management's priorities and their impact on the quality and continuity of local service in Arizona. Staff continues to recommend that Teligent's CC&N to provide local service in Arizona be rescinded. For the purposes of this docket, local service should be defined as the services provided under Teligent's Arizona local service tariff.